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| 10/552,402   | 07/12/2006  | Michael Weilkes        | 10191/4460          | 9413             |
| 26646 7590 08/25/2008<br>KENYON & KENYON LLP<br>ONE BROADWAY<br>NEW YORK, NY 10004 |             |                        |                     |                  |
| EXAMINER<br>MUSTAFA, IMRAN K   |             |                        |                     |                  |
| ART UNIT<br>3663   |             | PAPER NUMBER           |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/552,402

**Applicant(s)**

WEILKES ET AL.

**Examiner**

IMRAN MUSTAFA

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 14-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 07 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - a. The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 16 the applicant discloses that a faster algorithm is used for predicting the instant than for triggering the reaction. The phrase "faster algorithm" is vague and does not clearly point out the invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 14, 19, 20, 22, 24-26 rejected under 35 U.S.C. 102(e) as being anticipated by Janssen (US 6,919,917).

As to claim 14 Janssen discloses a method for controlling a driver-assistance device, comprising:

evaluating measured quantities (Column 1 lines 38-41), to be recorded by sensor (Column 2 lines 44-47), for triggering a reaction (Column 2 lines 35-47);

determining measuring instants through repeating cycles for acquiring and evaluating the measured quantities (Column 2 lines 29-34)

controlling the measuring instants in such a way that one of the measuring instants follows immediately as possible an instant at which measured quantities giving rise to a triggering probably exist (Column 2 lines 29-34).

As to claim 19 Janssen discloses that the reaction is an intervention into a guidance of a vehicle (Column 2 lines 35-40).

As to claim 20 discloses of the reaction that includes a warning signal (Column 2 lines 35-40).

As to claim 22 Janssen discloses a system for controlling a driver-assistance device, comprising:

an arrangement for evaluating the measured quantities (Column 1 lines 38-41), to be recorded by sensors (Column 2 lines 44-47), for triggering a reaction (Column 2 lines 35-47);

an arrangement for determining measuring instants through repeating cycles for acquiring and evaluating the measured quantities (Column 2 lines 29-34); and  
an arrangement for controlling the measuring instants in such a way that one of the measuring instants follows as immediately as possible an instant at which there are measured quantities that give rise to a triggering (Column 2 lines 29-34).

As to claim 24 Janssen discloses that the sensor is a radar sensor (Column 2 lines 27-30).

As to claim 25 Janssen discloses that the sensor is a video sensor (Column 2 lines 27-30).

As to claim 26 Janssen discloses that the sensor is a lidar sensor (Column 2 lines 27-30).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 23,27,28,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen (US 6,919,917) in view of Janssen Jonas Lars (US 2003/0055563)

As to claim 15 Janssen does not disclose of the measuring instants are controlled as a function of a prediction of an instant. Janssen Jonas Lars, however, teaches of measuring instants being controlled as a function of prediction of instant (Paragraph15). It would have been obvious to combine Janssen Jonas Lars prediction of an instant with Janssen with the motivation of being able to better detect an object.

As to claim 23 the claim is interpreted and rejected as in claim 15.

As to claim 27 Janssen discloses a system wherein at least one of the sensors includes a radar sensor (Column 2 lines 27-30). Janssen does not each of the measuring instants are controlled as a function of a prediction of an instant. Jansson Jonas Lars, however, teaches of measuring instants being controlled as a function of prediction of instant (Paragraph15). It would have been obvious to combine Jansson Jonas Lars prediction of an instant with Janssen with the motivation of being able to better detect an object.

As to claim 28 Janssen does not disclose of the measuring instants are controlled as a function of a prediction of an instant. Jansson Jonas Lars, however, teaches of measuring instants being controlled as a function of prediction of instant (Paragraph15). It would have been obvious to combine Jansson Jonas Lars prediction of an instant with Janssen with the motivation of being able to better detect an object. Janssen also does not does not teach of altering the run length via a number of refresh

cycles. However it would have been obvious to one skilled in the art to modify the number of times that data is taken with the motivation of having more accurate measurements. Janssen also does not disclose that a faster algorithm is used for predicting the instant than for triggering the reaction. It would have been obvious to one skilled in the art to use a faster algorithm to predict the instant with the motivation of being able to accurately sense the data of the surrounding environment.

As to claim 29 Janssen discloses that the reaction is an intervention into a guidance of a vehicle (Column 2 lines 35-40). Janssen does not teach of altering the run length via a number of refresh cycles. However it would have been obvious to one skilled in the art to modify the number of times that data is taken with the motivation of having more accurate measurements.

Claim 16, 17, 18, 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen (US 6,919,917)

As the claim 16 Janssen does not disclose that a faster algorithm is used for predicting the instant than for triggering the reaction. It would have been obvious to one skilled in the art to use a faster algorithm to predict the instant with the motivation of being able to accurately sense the data of the surrounding environment.

As to claim 17 Janssen does not disclose of the measuring instants being controlled by altering the run length of a computer program for evaluating the measurement data. However it would have been obvious to one skilled in the art to

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modify the number of times that data is taken with the motivation of having more accurate measurements.

As to claim 18 Janssen does not disclose of altering the run length via a number of refresh cycles. However it would have been obvious to one skilled in the art to modify the number of times that data is taken with the motivation of having more accurate measurements

As to claim 30 Janssen disclose that the reaction is an intervention into a guidance of a vehicle (Column 2 lines 35-40). . Janssen does not teach of altering the run length via a number of refresh cycles. However it would have been obvious to one skilled in the art to modify the number of times that data is taken with the motivation of having more accurate measurements

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janssen (US 6,919,917) in view of Breed (US 2001/0003168)

As to claim 21 Janssen does not disclose of the reaction being that of an occupant restraint measure. Breed, however, teaches of an occupant restraint measure (Paragraph 205). It would have been obvious to combine Breed's occupant restraint measure with Janssen with the motivation of protecting the passenger of a vehicle when the vehicle is getting close to another object.



***Response to Arguments***

5. Applicant's arguments filed April 28, 2008 have been fully considered but they are not persuasive.

Applicants on page 6 state that the rejection of claim 16 under 35 U.S.C. 112 is not indefinite.

The examiner respectfully disagrees with the applicant's argument. The term "faster" is a relative term and does not clearly point out the invention.

Applicants on page 6 argue that Janssen does not disclose measured quantities to be recorded by sensors for triggering a reaction.

The examiner respectfully disagrees with the applicants arguments, because Janssen does disclose of measuring quantities that are recorded by sensors (Column 2 lines 29-34 "sensors can be used for *measuring* at all times the distance"). Here the measuring clearly shows that distance quantities are recorded by sensors. Janssen also discloses that these measured quantities are used for triggering a reaction (Column 2 lines 35-40 "objects can be observed and appropriate *warnings* can be provided to the driver"). Here it is clear that the trigger a reaction is the warnings given to the driver.

On page 6 of the applicants response "Accordingly, claims 14 and 22" see examiners arguments and office action rejection above.

On page 6 of the applicant's response "Claims 15 and 23 were rejected" see examiners arguments and office action rejection above.

On page 6 of the applicant's response "Claims 16 and 18 were rejected" see examiners arguments and office action rejection above.

On page 6 of the applicant's response "Claim 21 was rejected" see examiners arguments and office action rejection above.

On page 7 of the applicants response "Accordingly, claims 15 to 18, 21 and 23" see examiners arguments and office action rejection above.

On page 7 of the applicants response "New claims 27 to 30 " see examiners arguments and office action rejection above.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IMRAN MUSTAFA whose telephone number is

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(571)270-1471. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM, Alt Fri, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

8/18/2008

/Imran Mustafa/  
Examiner, Art Unit 3663

Imran Mustafa

/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663